

DEFINITIONS AND BRIEF ADJUDICATIVE PROCEEDINGS

NEW SECTION

WAC 308-124-300 Definitions. Words and terms used in this chapter shall have the same meaning as each has under chapter 18.85 RCW unless otherwise clearly provided in this chapter, or the context in which they are used in this chapter clearly indicates that they be given some other meaning.

(1) "Branch manager" is the natural person who holds a managing broker's license and has delegated authority by the designated broker to manage a single physical location of a branch office. ~~The department shall register branch managers.~~ The department shall issue an endorsement for "branch manager".

(2) "Affiliated licensees" are the natural persons licensed as ~~salespersons, associate brokers, and/or branch managers~~ or managing brokers employed by a ~~real estate broker~~ firm and who are licensed to represent ~~a broker~~ the firm in the performance of any of the acts specified in chapter 18.85 RCW.

(3) "Prospect procurement" is initiating contact with a prospective buyer, seller, landlord or tenant for the purpose of engaging in a sale, lease or rental of real estate or a business opportunity, and the contact is initiated under a promise of

compensation.

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Put all rules related to BAP in 308-124F

NEW SECTION

WAC 308-124-305 Application of brief adjudicative proceedings. The director adopts RCW 34.05.482 through

34.05.494 for the administration of brief adjudicative proceedings conducted by request, and/or at the discretion of the director pursuant to RCW 34.05.482, for ~~the categories of matters set forth below. Brief adjudicative proceedings will be limited to a determination of one or more of the following issues:~~

~~—— (1) Whether an applicant for a license meets the minimum criteria for a license to practice as a real estate managing broker or real estate broker in this state and the department proposes to deny the application;~~

~~—— (2) Whether a person is in compliance with the terms and conditions of a final order or agreement previously issued by the department;~~

~~—— (3) Whether to deny or withdraw approval of any real estate clock hour courses, school approval, or instructor approval;~~

~~—— (4) Whether a license holder requesting renewal has submitted all required information and whether a license holder~~

~~meets minimum criteria for renewal;~~

~~—— (5) Whether a license holder has been certified by a lending agency and reported for nonpayment or default on a federally or state-guaranteed education loan or service-conditional scholarship; and~~

~~—— (6) Whether a cease and desist order issued to an unlicensed person for acting as a real estate broker or managing broker was properly issued.~~any actions occurring under RCW 18.85, RCW 18.86.030, and RCW 18.235. (Reference to the directors general rule.)

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NEW SECTION

WAC 308-124-310 Preliminary record in brief adjudicative proceedings.

(1) The preliminary record with respect to an application for an original or renewal license, for approval of an education course or curriculum, or for the proper issuance of a cease and desist order shall consist of:

(a) The application for the license, renewal, or approval and all associated documents; or the cease and desist order and all associate documents;

(b) All documents relied upon by the program in proposing to deny the license, renewal, or approval; or all documents

relied upon by the program in issuing a cease and desist order;
and

(c) All correspondence between the applicant for license, renewal, or approval and the program regarding the application; or all correspondence between the respondent and the program regarding the issuance of the cease and desist order.

(2) The preliminary record with respect to determination of compliance with a previously issued final order or agreement shall consist of:

(a) The previously issued final order or agreement;

(b) All reports or other documents submitted by, or at the direction of, the license holder, in full or partial fulfillment of the terms of the final order or agreement;

(c) All correspondence between the license holder and the program regarding compliance with the final order or agreement;
and

(d) All documents relied upon by the program showing that the license holder has failed to comply with the previously issued final order or agreement.

(3) The preliminary record with respect to the determination of nonpayment or default by the license holder on a federally or state-guaranteed education loan or service-conditional scholarship shall consist of:

(a) Certification and report by the lending agency that the identified person is in default or nonpayment on a federally or state-guaranteed education loan or service-conditional scholarship; or

(b) A written release, if any, issued by the lending agency stating that the identified person is making payment on the loan in accordance with a repayment agreement approved by the lending agency.

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NEW SECTION

WAC 308-124-315 Conduct of brief adjudicative proceedings.

(1) Brief adjudicative proceedings shall be conducted by a presiding officer for brief adjudicative proceedings designated by the director. The presiding officer for brief adjudicative proceedings shall not have personally participated in the decision which resulted in the request for a brief adjudicative proceeding.

(2) The parties or their representatives may present written documentation. The presiding officer for brief adjudicative proceedings shall designate the date by which written documents must be submitted by the parties.

(3) The presiding officer for brief adjudicative proceedings may, in his or her discretion, entertain oral argument from the parties or their representatives.

(4) No witnesses may appear to testify.

(5) In addition to the record, the presiding officer for

brief adjudicative proceedings may employ agency expertise as a basis for the decision.

(6) The presiding officer for brief adjudicative proceedings shall not issue an oral order. Within ten days of the final date for submission of materials or oral argument, if any, the presiding officer for brief adjudicative proceedings shall enter an initial order.

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